

**THE ARIZONA STATE BOARD OF PHARMACY
HELD A REGULAR MEETING NOVEMBER 5 & 6, 2003
GLENDALE, ARIZONA**

The following Board Members and staff were present: President Paul Draugalis, Vice President Dennis McAllister, Charles Dutcher, William E. Jones, and Linda McCoy. Compliance officers Rich Cieslinski, Larry Dick, Ed Hunter, Mitzi Wilson, and Dean Wright, Deputy Director Cheryl Frush, Executive Director Hal Wand, and Assistant Attorney General Roberto Pulver.

President Draugalis convened the meeting at 9:00 A.M. and welcomed the audience to the meeting. Mr. Wand explained that law continuing education will be offered for attendance at the meeting. President Draugalis announced that Board Member, Gene Drake, has tendered his resignation as a Board Member due to health issues and will be missed as a Board Member. Mr. Draugalis then asked Executive Director Wand to introduce the Arizona State Board of Pharmacy administrative staff. Mr. Wand introduced the staff and briefly explained their office duties.

AGENDA ITEM 1 - APPROVAL OF MINUTES

Following a review of the minutes and an opportunity for questions and **on motion by Ms. McCoy and Mr. Dutcher** the minutes of the Regular meeting and the Executive Session on August 27 and 28, 2003 were unanimously approved by the Board Members.

AGENDA ITEM II - PERMITS/LICENSES

Pharmacy Permits:

Deputy Director Frush advised the Board that pharmacy permits shown on Schedule A of the agenda included non-resident applications and all of the applications were in order and all fees have been paid.

Individuals representing Mixtures Pharmacy, Centerre Healthcare Co., and Biotech Cyclotron of Arizona were present and responded to questions from Board Members.

Mixtures Pharmacy was represented by Lori Allen. Mr. Draugalis opened the discussion by asking Ms. Allen to describe her proposed business. Ms. Allen explained that Mixtures Pharmacy will be a compounding pharmacy specializing in the preparation of bio-identical hormones, medications for pain management, and medications for veterinary use. Mr. Draugalis asked Ms. Allen if this would be the first pharmacy that she has owned. Ms. Allen replied that this would be the first pharmacy that she has owned. Mr. Draugalis asked Ms. Allen if she was aware that she could not compound any medications that were already available as commercially prepared products. She replied that she was aware of the requirement. Mr. McAllister asked Ms. Allen if she had received any specialized training in compounding. Ms. Allen stated that she had just completed an advanced training program in Houston and plans to enroll in additional training courses depending on specialty areas that she will pursue in the future.

Centerre Healthcare was represented by Robert Grimes. John Fuller was present representing Pharmacare Services. Mr. Draugalis asked Mr. Grimes to describe their business. Mr. Grimes stated that Centerre Healthcare is a St. Louis based company that develops and operates acute rehab hospitals. Centerre Healthcare is currently in the final stages of signing a lease with Maricopa Medical Center to lease the entire seventh floor. The pharmacy will be separately licensed by the Department of Health Services and will be Medicare Certified. He stated that Centerre Healthcare has contracted with Pharmacare Services to provide pharmacy services.

Mr. Draugalis asked Mr. Fuller to discuss the pharmacy services that his company would provide to Centerre Healthcare. Mr. Fuller stated that Pharmacare provides pharmacy services and contracts with hospitals to provide inpatient services only. Pharmacare has a national contract with Centerre Healthcare nationwide to provide such services. Pharmacare is located in New Orleans, Louisiana. This hospital will be the first hospital in Arizona

for which Pharmacare provides services.

Mr. Draugalis asked Mr. Grimes if Centerre was petitioning the Board to open with less than the required square footage required in the hospital rules. Mr. Grimes stated that Centerre will have limited space on the seventh floor. The agreement with Centerre and Maricopa Medical Center has been in the works for over a year. During this time period, the space requirements have changed to a minimum of 500 square feet for a hospital pharmacy. The space available for the pharmacy is approximately 320 square feet. The hospital will be licensed for 33 beds with an average census of 27 to 28 beds. Mr. Wand stated that the pharmacy has not been constructed yet and the floor plans on file indicate that the pharmacy is close to 320 square feet. Mr. Wand stated that R-4-23-655 (B) states that the minimum area requirement, not including unusable area, may be varied upon approval by the Board for out-of-the ordinary conditions or for systems that require less space. Mr. Wand stated that the Board is authorized to waive the 500 square foot requirement. He stated that the pharmacy did not intend to provide services that other hospitals are providing, such as emergency room services and large-volume intravenous therapy.

Mr. Draugalis opened the discussion for Board Members to ask questions. Mr. Jones asked Mr. Fuller what his plans were for staffing the pharmacy. Mr. Fuller replied that there will be one pharmacist and one technician. The pharmacy will be open Monday through Friday with a pharmacist on call.

Mr. Jones asked what kinds of medications will the patients receive. Mr. Fuller stated that patients will take routine chronic medications that they are currently taking and medications needed during their recovery.

Mr. Jones asked what type of patients will the hospital service. Mr. Grimes replied that the patients will be acute rehab patients that need treatment possibly due to a stroke or traumatic brain injury. Most of the treatments the patients receive will be therapy related. Mr. Fuller added that the patients may receive low dose pain medications and there is usually a low utilization of medications because treatment is usually centered around therapies.

Mr. Jones asked if the hospital will be JCAHO certified. Mr. Grimes stated that they will apply for JCAHO certification.

Mr. Jones asked what sort of equipment needs will the pharmacy need in addition to a computer system. Mr. Fuller stated that they will have a laminar flow hood and other required dispensing equipment. Mr. Jones asked if they were not doing IV solutions why did they need a laminar flow hood. Mr. Fuller stated that they will do limited IV solutions such as antibiotics. He stated that many of the antibiotics used will not require being made in a hood since they will purchase the ADD-Vantage products. Mr. Jones asked if he was aware of the requirements for an IV area. Mr. Fuller stated that they will have the required square footage and the floors and ceilings will be constructed as required. Mr. Jones asked if any other special equipment would be required. Mr. Fuller stated outside of the computer system, no automation would be used. Mr. Jones asked what type of delivery system would be used. Mr. Fuller stated either a med cart or unit-dose cassette system would be used.

Mr. Jones asked about the number of beds. Mr. Grimes stated that it will be licensed for 33 beds. He stated that the patients would be required to be ambulatory in order to be considered for admission to the hospital. The patients must be able to sustain three hours a day of therapy which could include a combination of physical therapy, occupational therapy, and speech therapy.

Mr. Jones asked if they anticipated a growth in staff and if one pharmacist and one technician would be adequate. Mr. Fuller stated that these are low acuity patients and it would depend on the number of patients. He stated most of the hospitals that they service will have 1 to 1½ pharmacists and 1 to 1½ technicians. Mr. Jones asked if there would be back up coverage if the pharmacist is unavailable. Mr. Fuller stated that they will have "as needed" staff on the payroll that can be placed as needed.

Mr. Jones asked if they had obtained a DEA registration. Mr. Fuller replied that after they complete the lease agreement with Maricopa Medical Center, they will apply for the DEA registration. Mr. Fuller indicated that they will have locked storage areas for all schedules of controlled substances medications.

Mr. McAllister asked what relationship will their hospital have with Maricopa Medical Center. Mr. Grimes replied that they will have a lease agreement with the hospital. He stated that they may refer patients to the hospital for emergency services that they do not provide.

On motion by Mr. McAllister and Mr. Dutcher, the Board unanimously approved the pharmacy permit for Centerre Healthcare Co. with a waiver on the space requirement as described with the following condition:

The square footage of the pharmacy does not fall below 300 square feet.

Mr. Jones still had concerns about staffing issues and the limited square footage. Mr. Fuller stated that he did not foresee having five to six employees in this space. He stated that they have limited staffing due to the low maintenance needs of the patients. Ms. McCoy added that the pharmacist will probably be providing clinical services and will not be in the pharmacy at certain times.

Biotech Cyclotron of Arizona was represented by Dennis Eshima. President Draugalis opened the discussion by asking Mr. Eshima to describe his business. Mr. Eshima stated that the company will be installing a cyclotron which produces ultra short lived radionuclides. They will then compound these products into positron emitting radiopharmaceutical agents. The radiopharmaceutical agents would then be distributed to hospitals and other imaging centers. Mr. Draugalis asked Mr. Eshima when he plans to open for business. Mr. Eshima stated that he is in the process of obtaining necessary permits and hopes to be operational the first quarter of next year.

Mr. Draugalis asked Mr. Eshima if he was licensed in Arizona. He replied that he has just completed the reciprocity process.

Mr. Wand reminded Mr. Eshima that a pharmacist must be present at all times while the pharmacy is open. Mr. Eshima said that he will be present at the facility as he is the pharmacist-in-charge.

President Draugalis asked if there were any concerns with the non-resident permits. Deputy Director Frush indicated that there was a concern with one permit which was JCB Laboratories. Mr. Wand explained that the Board office received a flyer for this business prior to the Board meeting. There were concerns that this pharmacy is manufacturing and not compounding. He stated that there was not enough time to investigate this issue prior to the Board meeting. Mr. Draugalis recommended the tabling of the application and allowing the staff to follow-up with their inquiries about the business and discuss the application at the January meeting.

President Draugalis informed the Board Members that McKesson Health Solutions listed in the addendum had withdrawn their application at this time.

At the conclusion of questions from the Board Members and **on motion by Mr. Jones and Mr. McAllister**, the Board unanimously approved the resident pharmacy permits listed below, with the exception of McKesson Health Solutions that withdrew their request, and the non-resident permits listed below with the exception of JCB Laboratories that was tabled until the January meeting. All approvals are subject to final inspection by a Board Compliance officer where appropriate.

RESIDENT (in Arizona)

<u>Pharmacy</u>	<u>Location</u>	<u>Owner</u>
Walgreens #07203	2415 N. Alvernon Way, Tucson, AZ 85712	Walgreen Arizona Drug Co.
Walgreens #07463	525 W. Valencia Rd., Tucson, AZ 85706	Walgreen Arizona Drug Co.
Food City United Drug #156	1221 W. Irvington Rd., Tucson, AZ 85714	Bashas' Inc.
CVS/Pharmacy #5812	5954 E. McDowell Rd., Mesa, AZ 85203	Recker Mesa CVS, LLC
Mixture Pharmacy LLC	16515 S. 40 th St. Suite #110, Phoenix, AZ 85044	Mixtures Pharmacy LLC
Walgreens Drug #07516	2411 W. Anthem Way, Anthem, AZ 85086	Walgreen Arizona Drug Co.
Walgreens Drug #07558	9233 East Guadalupe Rd., Mesa, AZ 85207	Walgreen Arizona Drug Co.
Centerre Healthcare Co.	2601 E. Roosevelt St., Phoenix, AZ 85008	Centerre Healthcare Co.
Oscos #1026	16750 W. Bell Rd., Surprise, AZ 85374	Albertson's Inc.
Oscos #1009	5802 W. Olive, Glendale, AZ 85302	Albertson's Inc.
Oscos #1007	1849 W. Greenway Rd., Phoenix, AZ 85023	Albertson's Inc.
Biotech Cyclotron of AZ, LLC	4540 E. Cotton, Phoenix, AZ 85040	Biotech Cyclotron of AZ, LLC
Wal-Mart Pharmacy #10-2767	4505 E. McKellips Rd., Mesa, AZ 85215	Wal-Mart Stores, Inc.
Wal-Mart Pharmacy #10-5257	5122 E. University, Mesa, AZ 85205	Wal-Mart Stores, Inc.
Wal-Mart Pharmacy #10-5332	730 E. McKellips Rd., Mesa, AZ 85203	Wal-Mart Stores, Inc.
Sam's Pharmacy #10-4830	1459 N. Dysart Rd., Avondale, AZ 85323	Sam's West, Inc.
Eckerd Drugs #5358	25 S. Val Vista Dr., Mesa, AZ 85204	Eckerd Corporation
Eckerd Drugs #5309	15495 W. Bell Rd., Surprise, AZ 85374	Eckerd Corporation
Fry's Food & Drug #84	542 E. Hunt Highway, Florence, AZ 85232	Smiths Food & Drug Centers, Inc.
Fry's Food & Drug #89	11425 W. Buckeye Rd., Avondale, AZ 85323	Smiths Food & Drug Centers, Inc.
McKesson Health Solutions AZ. (Withdrawn)	9700 N. 91 st St. Suite 232, Scottsdale, AZ 85258	McKesson Corporation

NON-RESIDENT (out of state)

<u>Pharmacy</u>	<u>Location</u>	<u>Owner</u>
CMC Pharmacy	4 East Main St., Carnegie, PA 15106	CMC Pharmacy, Inc.
Innovative Healthcare Inc	5400 S. University Dr. #508, Davie, FL 33328	Innovative Healthcare Inc
Clinical Supplies Management Inc	4733 Amber Valley Parkway, Fargo, ND 58104	Clinical Supplies Management Inc.
United Medical	1910 John Barrow Rd, Little Rock, AR 72204	Lincare Inc.
Prestab Co.	3016 N.W. 79 th Ave., Miami, FL 33122	Maria G. Guardiola Drez
Fisher's SPS	3904 Perrysville Ave., Pittsburgh, PA 15214	Medmark Inc.
Hollywood Pharmacy	13148 West Dixie Highway, Miami, FL 33161	Hollywood Pharmacy Inc.
Damer & Cartwright Pharmacy.	104 S. Michigan Ave #619, Chicago, IL 60603	Damer & Cartwright Pharmaceutical Inc.
Preferred Pharmaceutical Services LLC.	2650 North Marine Dr., Portland, OR 97217	Preferred Pharmaceutical Services LLC
Dendrite Pharmacy Department	25 Madison Road, Totowa, NJ 07512 (O)	Dendrite Interactive Marketing
TheraCom Inc.	909 E. Collins Blvd. Ste 103, Richardson, TX 75081	Advance PCS
Medaus, Inc.	2637 Valleydale Rd. #200, Birmingham, AL 35244	Medaus, Inc.
Superior Pharmacy Group	3321 N.W. 82 nd Ave., Miami, FL 33122	Superior Pharmacy Group
Factor Support Network Pharmacy Inc.	900 Avenida Acaso Ste. A, Camarillo, CA 93012	Factor Support Network Pharmacy
AmeriPharm, Inc.	2503 E. 54 th St. N Suite A, Sioux, Fall, SD 57104	AmeriPharm, Inc.
Apothecary Solutions Corporation	6210 Technology Center Dr., Indianapolis, IN 46278	Apothecary Solution Corporation
Pharmacare Solutions & Meds, Inc.	9734 SW 24 th St. Suite 101, Miami, FL 33165	Pharmacare Solutions & Meds, Inc
SinusPharmacy, Inc.	6430 Via Real, Suite 8, Carpinteria, CA 93013 (O)	SinusPharmacy, Inc
Biotech Pharmacy	3940 S. Eastern Blvd., Las Vegas, NV. 89119	Biotech Pharmacy
Managed Health Care Systems, Inc.	1100 N.E. 51 St., Oakland Park, FL 33334	Managed Health Care Systems, Inc.
FMC Pharmacy Services	10901 D. Roosevelt Blvd. N. Ste. 400, St. Petersburg, FL 33716	FMC Pharmacy Services, Inc.
Arcadia Rx	3524 Park Plaza Rd., Paducah, KY 42001 (O)	SSAC, LLC
Select Rx.com	1318 Dale St. Ste 210, Raleigh, NC 27605	Steve Malik
JCB Laboratories (TABLED)	3510 N. Ridge Rd. Suite 910, Wichita, KS 67205	JCB Laboratories

(O) - Change of Ownership

Wholesale Permits

Deputy Director Frush indicated that all applications were in order and all fees have been paid.

CT International was represented by warehouse manager, Steve Kolo. Mr. Draugalis asked Mr. Kolo to describe his business for the Board Members. Mr. Kolo stated that CT International will be using their warehouse as a storing and distribution center. They will provide supplies to acute care facilities, hospitals, and home care facilities. Mr. Draugalis asked if they were a full service wholesaler. Ms. Frush indicated that they had applied for a full service wholesale permit. Mr. Wright explained to the Board that he had recently been to the site and everything was in order. The warehouse is also used for another wholesale operation.

Mr. Dutcher questioned why Sam's Club applied for a wholesale permit. Mr. Wand explained since Sam's Club and Costco offer products for resale they are classified as a wholesaler. He explained that they have non-prescription wholesale permits because they do not offer prescription medications for resale.

At the conclusion of questions by the Board Members, **on motion by Mr. Jones and Ms. McCoy**, the Board unanimously approved the following wholesale permits. All permits are subject to inspection by the Compliance Officer where appropriate.

<u>Wholesaler (all Full Service)</u>	<u>Location</u>	<u>Owner</u>
CT International	2203 E. University Dr., Phoenix, AZ. 85034	Mike Kyle
Sam's Club #10-4830	1459 N. Dysart Rd., Avondale, AZ 85323	Sam's West Inc.

Pharmacist and Pharmacy Intern Licenses

Following a review of the roster of applicants for licensure as pharmacists and pharmacy interns and on assurance by the staff that all applications are in order and all fees paid: **on motion by Mr. McAllister and Ms. McCoy**, the Board unanimously approved the following licenses:

Pharmacists licenses 13856 through 13949 and Pharmacy Intern licenses I06027 through I06252. For a complete list of names see attachments.

AGENDA ITEM III -Special Requests

#1 David Crowder

David Crowder appeared on his own behalf to request permission to pursue licensure by reciprocity from his active Michigan license. President Draugalis asked if Mr. Crowder was still employed by Kroger. He replied that he was still employed by Kroger. President Draugalis then turned the meeting over to Vice President McAllister due to a conflict of interest. Mr. McAllister asked Mr. Crowder to explain why he was appearing at the Board meeting. Mr. Crowder stated that he is requesting to reciprocate his pharmacist license from Michigan to Arizona. Mr. McAllister asked why he could not proceed with reciprocity. Mr. Crowder explained that his license had been suspended in the past. Mr. McAllister asked when this occurred and what led to the suspension. Mr. Crowder stated that the incident occurred in 1995 and was due to the fact that he displayed active alcoholic behaviors that impaired his ability to perform his job as a pharmacist. Mr. McAllister asked if he had created prescriptions for controlled substances for family members. Mr. Crowder replied that these charges were dropped because they could not be substantiated. Mr. McAllister asked how long his license was suspended. Mr. Crowder stated his license was suspended for six months and one day, but it took about 1½ years to restore his license to the active status due to the re-licensing procedures. Mr. Crowder stated that he attended a three week rehab program and participated in a 5 year program which included drug screens, therapy, and attendance at AA meetings. Mr. McAllister asked Mr. Crowder to describe his life now. Mr. Crowder said it is much better and he now has no issues.

Mr. Jones asked if Mr. Crowder did write the controlled substance prescriptions. Mr. Crowder stated that he did write the controlled substance prescriptions, but the charges were dropped. Mr. Crowder stated that he would not create prescriptions and there was no excuse for his behavior and he is personally accountable for his behavior. **On motion by Mr. Dutcher and Ms. McCoy**, the Board voted unanimously to allow Mr. Crowder to proceed with reciprocity.

#2 Martin Reiser

Martin Reiser appeared on his own behalf to request permission to pursue licensure by reciprocity from his active Maine license. President Draugalis asked Mr. Reiser to explain why he was appearing at the Board meeting. Mr. Reiser stated that he was applying for reciprocity and was asked to appear. Mr. Draugalis asked Mr. Reiser if there were any disciplinary actions taken against his license in Maine. Mr. Reiser stated that in the state of Maine he was fined for three (3) violations but did not lose his license. Mr. Draugalis asked Mr. Reiser to describe the nature of the complaints against him. Mr. Reiser stated the first complaint was because he advised a parent that instead of giving Amoxicillin to their child three times a day that the parent could give the entire dose at once. Mr. Reiser stated that he received this information at a seminar. Mr. Draugalis asked if the information was wrong or incomplete. Mr. Reiser stated that he did not know. When he practiced in Pennsylvania, the patients thanked him for this information. When he moved to Maine, a physician objected. Mr. Reiser stated that no harm was done to the child. Mr. Draugalis asked him to explain the second incident. Mr. Reiser stated that this incident involved a prescription for Oxycontin. He stated an individual in a running suit came into his store and wanted to write a prescription for Oxycontin. The gentleman told him he was a physician, but did not have any identification. Mr. Reiser thought it was a scam. He called the patient trying to ascertain if this gentleman was her doctor. The Board considered his mannerisms as unprofessional. Mr. Draugalis asked him to explain the third situation. Mr. Reiser stated that he refused to fill Cylert prescriptions for children because he read the drug could cause symptomless liver failure in children. He stated he acted impulsively when he gave information to the patients. He stated he received positive feedback from other doctors and patients for this information. Mr. Draugalis asked if he completed the required course for interpersonal skills and conflict resolution. Mr. Reiser stated that he did complete the course. Mr. Draugalis asked if his license was in good standing and if there have been any issues since this time. Mr. Reiser stated his license was current and there have been no problems.

Mr. Jones asked if formal complaints were filed against him with the Board. Mr. Reiser stated the doctor trying to write the Oxycontin prescription filed a complaint. He stated the Board Inspector found out about the incident with the antibiotic because she saw a letter on the desk addressed to his store manager from the physician complaining about his actions. He feels the Cylert incident was brought to the attention of the Board Inspector by the pharmacists working at a competing chain. He again stated that he did not cause any patient any harm.

Ms. McCoy asked Mr. Reiser if he learned anything from the interpersonal course. Mr. Reiser stated that he learned not to let his emotions get the better of him and that there have been no further incidents.

On motion by Mr. McAllister and Ms. McCoy, the Board voted unanimously to allow Mr. Reiser to proceed with reciprocity,

#3 Ali-Reza SaremAslani

Ali-Reza SaremAslani appeared on his own behalf to request permission to take the MPJE exam for a fourth time. President Draugalis asked Mr. SaremAslani to explain why he was appearing before the Board. Mr. SaremAslani explained that he is in the process of reciprocating his pharmacist license from Oklahoma to Arizona. He has taken the MPJE exam three times and has not passed. Ms. Frush reviewed the rules that state after three attempts to pass the MPJE an applicant must appear before the Board to request permission to take the exam for a fourth time. Mr. Draugalis asked Mr. SaremAslani what he is doing to prepare for the test. Mr. SaremAslani replied that he is now working at a local chain pharmacy and is studying the law. Mr. Draugalis asked if he has taken a refresher course. Mr. SaremAslani replied that he has not, but is studying and now has contact with other pharmacists through work to help answer questions.

Mr. Dutcher asked Mr. SaremAslani if his license was current. He replied that his license is current and active in Oklahoma. **On motion by Mr. McAllister and Ms. McCoy**, the Board voted unanimously to allow Mr. SaremAslani to take the MPJE exam for a fourth time with the condition that if he does not pass the exam that he cannot retake the exam until he completes a review course.

#4 Aaron Ezrailson

Aaron Ezrailson appeared on his own behalf to request the termination of his probation subject to the terms of Board Order Number 02-0011-PHR. President Draugalis asked Mr. Ezrailson why he was at the Board Meeting to address the Board. Mr. Ezrailson explained that he would like his probation terminated. Mr. Draugalis asked Mr. Ezrailson to explain what led to his probation. Mr. Ezrailson stated that he dispensed Ultram prescriptions for a patient without authorization for refills. Mr. Draugalis asked if anything happened to the patient. Mr. Ezrailson stated that he had did not know because he has sold his store since this time and is retired. Deputy Director Frush stated that the fine was paid and Mr. Ezrailson has sold the store and did not have any problems prior to selling the store. Mr. Dutcher asked Mr. Ezrailson if he plans to return to practice. Mr. Ezrailson stated he may work a few days a week. **On motion by Mr. McAllister and Mr. Dutcher**, the Board unanimously agreed to terminate probation and restore Mr. Ezrailson's license to active status.

#5 George Wiesner

George Wiesner appeared on his own behalf requesting to reciprocate his pharmacist license from New Jersey where it was subject to discipline (now reinstated) which was not reported to the Arizona Board on his original reciprocity application. President Draugalis asked Mr. Wiesner if this was not his third time appearing in front of the Board for the same request. The first time the Board denied his request and the second time the Board voted to allow reciprocity provided he completed 1500 hours of graduate internship, take and pass both the NAPLEX and MPJE. Mr. Draugalis asked Mr. Wiesner if he had completed the 1500 intern hours and taken and passed the two exams. Mr. Wiesner said he had not taken the exams. He stated that he is working for CVS in New Jersey and has completed 1500 hours. Mr. Draugalis asked if he completed 1500 hours in Arizona as requested. Mr. Wiesner said no and he would like to explain why he had not completed the hours in Arizona. He stated that he was working as an intern at Wal-Mart and the District Manager knew about his situation. When he appeared at the Board meeting in June, her superiors found out about his problems and left him go two weeks later. He was not able to obtain an intern job and was forced to go back to New Jersey. Mr. Draugalis asked Mr. Wiesner if he had talked to CVS about an internship. Mr. Wiesner replied that if he can reciprocate his license they will relocate him to Arizona. Several Board Members asked Mr. Wiesner if he had contacted CVS about intern hours when he kept stating that no one would allow him to work as an intern. Mr. Wiesner finally admitted that he has not contacted CVS about completing intern hours in Arizona. Mr. Draugalis pointed out to Mr. Wiesner that CVS has opened at least 10 stores in Arizona and he is sure they would assist him in completing his required intern hours. Mr. Jones pointed out that most interns do not have any trouble finding a job. Mr. Draugalis, Ms. McCoy, and Mr. McAllister all stated that they gave him the key to get back into practice in Arizona but he did not do what was asked to obtain an Arizona license. The Board Members agreed to let the original motion stand as is. That motion states that Mr. Wiesner will complete 1500 hours of graduate internship and take and pass the NAPLEX and MPJE.

#6 Alan Clendenin

Alan Clendenin appeared with Lisa Yates and Denis Johannes, representing PAPA, to request to terminate the suspension on his pharmacist license and impose probation. President Draugalis asked Mr. Clendenin to explain why he was appearing in front of the Board. Mr. Clendenin explained that his license is currently on suspension and he would like the suspension lifted so that he may return to practice. He explained that he had a PAPA contract and over a year ago he had a relapse and it was not his first relapse.

Lisa Yates stated that the PAPA steering committee supports Alan's request with stipulations that he does not work alone or works in a non-dispensing role.

Mr. Draugalis asked Mr. Clendenin how he was doing. He stated that he has completed an inpatient program and lived in a halfway house for 6 months. He stated that he has a Cross Roads facility close to his home that serves as a resource to him on a daily basis if needed. Mr. Draugalis asked if he was ready to return to practice. Alan replied he was prepared to return to practice and would not have similar problems this time. Mr. Draugalis asked if he had a support group. He replied that he has a sponsor, attends PAPA weekly group sessions, and associates with clean and sober people.

Mr. Wand stated that according to A.R.S. §32-1928 (D), the Board can reinstate this license with or without conditions.

Mr. Jones asked Lisa Yates if there were any concerns. Lisa replied that Mr. Clendenin is working with a new counselor and he is improving. She also responded that they do not encourage participants to work more than 40 hours a week when they return back to work. Mr. Jones asked Mr. Clendenin what area of pharmacy he could like to practice. Mr. Clendenin replied that he would like to return to hospital work, but is willing to work in a non-dispensing capacity.

Mr. Dutcher asked if a relapse could occur because of past history. Mr. Clendenin replied it is a day-to-day situation and the same things that tempted him previously do not currently tempt him.

On motion by Mr. McAllister and Mr. Jones, the Board unanimously agreed to stay the suspension and impose probation with the stipulation for the first year of probation, that Mr. Clendenin must work in a Board approved situation. Also, the standard PAPA restrictions would apply. After one year, Mr. Clendenin may appear before the Board and request the removal of Board approval stipulation. A roll call vote was taken and all Board Members voted aye.

A brief recess was called at 10:35 A.M. and the meeting reconvened at 10:45 A.M.

AGENDA ITEM IV - REPORTS

Executive Director's Report

Executive Director Wand informed the Board that the first part of the sunset review was completed. Mr. Wand met with members of the Sunset Review Committee and answered questions. He stated that the members of the committee had positive things to say about the Board and were impressed by our record of resolving consumer complaints in a timely fashion. Members of the review committee had questions about the potential immunization rules and proposed controlled substances monitoring program. They were concerned that patients would be charged for the Drug Monitoring program, but were informed that licensees would pay for the program. The committee was satisfied that the standard PAPA contract was 5 years. A motion was made and unanimously accepted to proceed with the process to extend the Board for the maximum period of ten years.

The next step in the process will be that Senator Hellon will order that an agency continuation bill be dropped and then the President of the Senate will assign the bill to Committees at the start of the regular session. Senator Hellon then will place the bill on an agenda for a Committee hearing, and the bill proceeds through the legislative process in the Senate and then the House (rules, caucus, floor, and third read) and then it will be transmitted to the Governor for signing. Mr. Wand stated that he and Ms. Frush will meet with all of the various committee members who will review our Bill.

Mr. Dutcher asked about the position of the legislature on Canadian imports. Mr. Wand stated that several members do not want the Board to prevent consumers from obtaining medications from foreign sources. Mr. Wand advised them that it is currently illegal to import foreign drugs and we will continue to warn facilitators and patients because of important safety concerns and non-compliance with federal law.

Deputy Director's Report

Deputy Director Frush called the Board's attention to the August and September Compliance Officers Activity Reports in the meeting book. She stated the Compliance Officer's inspections are slightly ahead of last years. She also pointed out that the total number of complaints has increased from last year at this time. Currently, there are 22 more complaints than last year. Non-prescription retailer inspections are lagging behind last year's total. The one non-prescription inspector is still working with the DPS methamphetamine task force and is also doing wholesale inspections, which he did not perform last year.

PAPA Report

Lisa Yates represented PAPA. She stated that PAPA currently has 36 participants. She stated since 8/27/2003, that PAPA has had one new participant and has terminated one participant's contract. Issues involving several participants were discussed with Board Members. Lisa stated that in February of 2004, PAPA is planning to sponsor a Continuing Education program worth four to five continuing education units.

APA Report

Kathy Boyle represented APA. She stated that she is reviewing several agencies sunset reviews and one proposal may interest the Pharmacy Board. There is a proposal to develop a two-year pilot program for medication aides in nursing homes. APA is supporting the pilot program and are recommending that the required pharmacology course be taught at a College of Pharmacy (University of Arizona or Midwestern).

Ms. Boyle stated that a meeting will be held to approve/deny the unification of the pharmacy association with the health systems association and that she would like APA members to attend the meeting.

She stated that the APA reviewed the Attorney General's pricing survey prior to the survey being sent to the pharmacies.

She stated the convention will be held from June 24-27, 2004 at the Westin Kierland in Scottsdale.

AGENDA ITEM V- PROPOSED RULES

Compliance Officer/ Rules Writer, Dean Wright began by reviewing the Board Administrative Hearing Rules. Mr. Wright explained that this section has been completely rewritten and is similar to the rules of the Office of Hearings. Mr. Jones asked why we needed to rewrite the entire section. Mr. Wright explained the language was archaic and it was out of sequence. Mr. Wand stated that we are required to review old rules every 5 years. Mr. Jones asked if there were any changes to the rules that would limit the number of times an individual can ask to appear in front of the Board for a rehearing. He wanted to know if there was any rules that gave the Board the authority to prevent someone from requesting to appear at every Board meeting to ask for a rehearing.

Assistant Attorney General Roberto Pulver addressed the issues. He said the Board may authorize the individual to appear or they may turn the case over to the Office of Administrative Hearing. He stated other alternatives would be to allow the Executive Director to dismiss cases. He also stated that the Board can also give the Executive Director the power to authorize a continuance if requested. These changes must be authorized by statute. He also stated that a provision could be made in the statutes that would prohibit an individual that has had his license revoked from appearing for five years. Mr. Jones asked how would we proceed if we wanted to do add any of these requirements to the statutes. Mr. Wand explained that a bill would have to be presented to the legislature and we do not currently have a bill at this time. He stated that if the APA has an open bill we may be able to add to their bill. Mr. Wand suggested that this may be an issue the Board would like to discuss at the strategic planning meeting. The Board gave approval for Mr. Wright to move forward with Notice of Proposed Rulemaking.

Mr. Wright reviewed the repeal of R4-23-406 which is the manufacturer's and abbreviations list rules. A hearing was held on October 27, 2003 and no one attended. **On motion by Ms. McCoy and Mr. Dutcher**, the Board gave Mr. Wright the approval to proceed.

Mr. Wright then reviewed the changes to the language in R4-23-605 and 607 which would ensure that non-resident wholesalers are required to obtain a copy of the permit when selling to another licensed individual or business. A public hearing was held on November 3, 2003 and no one attended. Mr. Wright provided the Board Members with a copy of the Notice of Final Rulemaking and the Economic Impact Statement. **On motion by Mr. McAllister and Mr. Jones**, the Board gave Mr. Wright the approval to proceed.

Mr. Wright then started the discussion with the changes to the technician rules that were discussed at the last Board meeting. The first change that Mr. Wright made was the language was deleted from the hospital section and placed in the new technician section. The language removed was the section that stated a technician must sign a statement that they have read the job description and understand the Board's rules relating to technicians.

Mr. Wright then passed out changes to the technician rules. He informed the Board Members to ignore Section E which listed instances where fees may be reduced. Mr. Wand explained that Section E was eliminated because the staff does not have the time to look at pay stubs to determine the number of hours worked. The technician will be either certified or not certified.

Mr. Wright pointed out the changes to the section on training programs. He added clauses that stated that the pharmacist must document and sign a statement that states the technician has completed a training program and maintain this documentation in the pharmacy. Mr. Wright had also added a statement that the document must be notarized. Mr. Jones stated that the document would not need to be notarized, since this would serve no value. Mr. Wright stated that the same statements were included in the compounding training programs for technicians. This section also includes the statements about the training programs and the notarized copy of the training document.

Mr. Wright explained that GRCC advised him that we were not allowed to use the term renewal for the pharmacy technician in training because the statute stated that the technician must reapply after 24 months. The license will expire in 24 months and the technician can ask the Board for permission to reapply. Mr. Wand asked if a sub-committee could be formed to review the requests and then brought to the Board for final review. Assistant Attorney General Pulver stated that would be acceptable.

Mr. Wright stated the only remaining issue is the elimination of the technician rule. The Board Members received copies of letters expressing concerns about eliminating the technician ratio. The letters were both for and against the elimination of the ratio. The majority of the letters oppose doing away with the ratio. Mr. Wright stated that the APA legislative committee supports doing away with the ratio. Mr. Wright reminded everyone the rules that deal with counter space have just passed and that will require each person to have 3 square feet of counter space. Mr. Wright reminded everyone that they will need to look at the square footage and the counter space to determine the amount of staff that may work in the pharmacy.

President Draugalis asked Kathy Boyle to address the Board concerning the APA's position. Ms. Boyle stated that most of the membership who replied were opposed to eliminating the ratio. The APA legislative committee is in favor of eliminating the ratio and is recommending that the Board of Pharmacy do a study to show if errors increased and patient safety is affected. The APA legislative committee felt that maybe a pilot program would be beneficial.

President Draugalis asked Ms. McCoy about the lack of a ratio in the hospitals and if this had led to errors. Ms. McCoy stated that patient outcomes need to be reviewed. Ms. McCoy stated by eliminating the ratio the pharmacist will have more time to counsel the patients.

President Draugalis stated that he does not observe hospitals with one pharmacist and 20 technicians and they have not had a ratio in this environment. He feels that by eliminating the ratio the technicians will now do the counting and allow the pharmacist to do the counseling. He feels that the corporation will not impose too many technicians upon the pharmacist.

Mr. Dutcher stated that he is the only pharmacist on the Board working behind the counter on a daily basis. He feels that corporations will impose too many technicians upon the pharmacist. He feels that economics will be the driving issue. He feels that a corporation can employ 4 technicians for the same price that they can employ 1 pharmacist. He feels that there may be a decrease in patient care because the pharmacist is the only one in the pharmacy that can do certain tasks, such as the final check on the prescription and patient counseling.

President Draugalis feels that there will be an increase in patient care. He feels that the pharmacist will be able to do the job that they were trained to perform and the technicians can do manual tasks such as counting.

Mr. McAllister stated that his thoughts have not changed. Mr. McAllister said that he has been asked the question by pharmacists "If I have a lot of technicians, what am I going to do?". His reply is that the pharmacist can talk to their patients. He feels that the Board should get tough on pharmacists that do not counsel their patients. He feels that the lack of counseling should result in a 90 day suspension of the pharmacist's license. He feels if the Board eliminates the ratio and negative outcomes occur the ratio could be reinstated.

President Draugalis stated that it was time for a lunch break and the discussion would be re-opened at 4:00 P.M. for further discussion.

The meeting convened for a Lunch Break at 11:50 A.M.

The meeting reconvened at 1:00 P.M.

AGENDA ITEM VI - COMPLAINT REVIEW

The Consumer Complaint Review committee met prior to the Board Meeting to review 22 complaints in preparation for making recommendations to the Board for final resolution. Members McCoy and Drake served as the review committee. Ms. McCoy provided a summary of each complaint and provided the committee's recommendation to the Board. Board Members were encouraged to ask questions.

Mr. Dutcher was concerned about the large number of complaints involving a mail-order pharmacy. Mr. Wand stated that he believes that the mail-order pharmacies have acquired new contracts and are still acquiring adequate staff to do the extra work.

President Draugalis asked if any of the complaints involved counseling issues. Deputy Director Frush indicated that on Complaint 2703 that it could not be determined if counseling occurred. Board Members then discussed the complaint because the pharmacy has just signed a consent agreement. Mr. Wand explained that the consent agreement stipulated that the pharmacy will be inspected four times in the next six months. President Draugalis felt that a conference was not appropriate in this case and a consent order should be issued against the pharmacist since people are getting hurt at this pharmacy. Mr. McAllister stated that the pharmacists at compounding pharmacies should receive specialized training and should be required to take a compounding course. Mr. Jones questioned why the pharmacy was compounding a commercially available product. The suggestion was made that when the Compliance Officer goes to the pharmacy to do the inspections that he review the files to determine if other commercially available products are being compounded. Ms. McCoy stated that the patient is at the mercy of the pharmacist preparing the compounded products because the product cannot be identified commercially or even if they have received the correct product. Ms. McCoy also agreed the product is available commercially. Mr. Jones had concerns about the expiration date of the product. He stated that the hospital where he worked prepared the same product and were told by Upjohn that the product only has a 60 day expiration date and this compounded product had a 120 day expiration date. He stated that he will follow-up on this product to check the expiration date that should be applied to the product. Mr. McAllister stated that he felt strongly about a consent agreement because a conference is held when an error occurs. In this instance, the pharmacist dispensed the wrong product, compounded a commercially available product, and dispensed an outdated product. He felt that these actions warranted a consent agreement.

Following the presentations and discussion and **on motion by Ms. McCoy and Mr. Dutcher**, the Board agreed to unanimously to accept the agreed upon actions for resolution of the complaints. The following summary represents the final decision of the Board in each complaint:

- Complaint # 2691 - No further action
- Complaint # 2696 - Letter of Warning
- Complaint # 2698 - Letter of Warning
- Complaint # 2699 - No Further Action
- Complaint # 2700 - No Further Action
- Complaint # 2701 - Conference for Pharmacist - Memo to supervisors to notify stores of error
- Complaint # 2702 - Letter to Pharmacist - Offer patient options if he is refusing to dispense her prescriptions
- Complaint # 2703 - Consent
- Complaint # 2704 - Conference
- Complaint # 2705 - Letter of Warning
- Complaint # 2706 - Letter Recommending an In-Service on Glucose Monitoring Devices (Copy to Corporate Office)
- Complaint # 2707 - Conference - Pharmacist-In-Charge

Complaint # 2708 - Letter of Warning

Complaint # 2709 - Conference - Pharmacist - In- Charge

Complaint # 2710 - No Further Action

Complaint # 2711 - Conference

Complaint # 2712 - No Further Action

Complaint # 2713 - No Further Action

Complaint # 2714 - No Further Action

Complaint # 2717 - Letter to Corporate

Complaint # 2718 - Letter of Warning - Return letter showing proof of corrected labeling (Follow-up visit)

Complaint # 2719 - No Further Action

President Draugalis appointed Mr. Ketcherside to fill the vacant position on the complaint review committee due to Mr. Drake's resignation.

At the last Board meeting, the Board decided to take no further action on Complaint #2690. The complainant's son wrote a letter asking the Board to review the complaint again. President Draugalis asked Deputy Director Frush to review the complaint. The complainant stated that she received metoprolol 50 mg instead of metoprolol 100mg. The pharmacy stated the patient was counseled and that they use scanners to ensure the right product is dispensed. The pharmacy states the complainant's son was counseled because the insurance company would not pay for the combination product and the patient needed to take the two separate medications. The patient had previously taken metoprolol 50mg. It was not clear from the evidence provided that an error occurred at the pharmacy. **On motion by Mr. Dutcher and Ms. McCoy**, the Board voted to stand by their original decision of No Further Action.

AGENDA ITEM VIII - CONFERENCES

COMPLAINT # 2665

President Draugalis called Pharmacist Steven Schwartz and supervisor Fauzia Somani forward to address the Board about the consumer complaint. The technician did not appear because she was attending school. Compliance Officer Mitzi Wilson was present to report the findings of her investigation. President Draugalis asked Mr. Schwartz to discuss the events leading up to this complaint. Mr. Schwartz stated the prescription was written for Synthroid and when the technician entered the prescription she entered the prescription as Levoxyl. He dispensed Levoxyl. He assumed the technician had called the doctor for approval because it is the usual practice at this pharmacy to call the doctor for approval since Synthroid does not have an AB rated generic equivalent. President Draugalis asked if Mr. Schwartz has the hard copy available when he verifies the prescription. Mr. Schwartz said he does use the hard copy to verify the prescription and assumed the technician had called the physician. President Draugalis asked what changes have been made at the pharmacy so that this error does not occur again. Mr. Schwartz stated that their District Manager held a meeting at the store and discussed the error with the technicians. The District Manager also discussed the error at the meeting for Pharmacy Managers. She reminded the Pharmacy Managers that Synthroid does not have an AB rated generic. Mr. Dutcher asked Mr. Schwartz if he enters prescriptions into the system. Mr. Schwartz replied that he does. Mr. Dutcher asked if the generics automatically pop-up. Mr. Schwartz replied that they do not pop-up because this is not an approved substitution. Mr. Dutcher asked Mr. Schwartz if he asked the technician if she called the physician. He said that he could not remember. Ms. McCoy asked what process changes have they made in the pharmacy. Mr. Schwartz stated that all changes are documented on the face of the prescription. The name of the doctor or nurse authorizing the change is documented on the face of the prescription and the drug name is crossed out and the authorized drug is written on the prescription. President Draugalis reminded Mr. Schwartz to be careful.

COMPLAINT # 2668

President Draugalis called Pharmacist Michael Steffens and his supervisor June Piposar to address the Board relevant to their role and recollection in this consumer complaint. Also, present was Steve Lerch the Safeway Pharmacy Regional Manager for all Arizona stores. Compliance Officer Mitzi Wilson reported the findings of her investigation. President Draugalis asked Mr. Steffens to provide a recollection of the events. Mr. Steffens stated that a patient brought in a Dilaudid prescription for 8 mg. and he did not have the medication. The patient was in obvious pain and was on crutches. When he discovered that he did not have the medication, he informed the patient that he would not be able to obtain the medication for one week since the pharmacist -in-charge was on vacation and he was the only one that could order the medication. Mr. Steffens stated that since that incident occurred he has learned that the regional pharmacy manager can order CII medications for a store. Mr. Steffens called several stores to see if they had the medication in stock. Mr. Steffens stated that he had hydromorphone 4 mg in stock and tried to call the doctor to see if he could substitute the 4 mg tablets and change the dosage. He stated that he called both doctors on the blank and neither doctor responded. He stated that without authorization he dispensed the 4 mg tablets to the patient and in hindsight this was an error. The doctor who filed the complaint was not the doctor who wrote the prescription and he felt the dosage was high. Mr. Steffens stated that he relied on Facts and Comparisons and it stated that the dose could exceed 4 mgs every 6 hours. The patient was to take a dose of 16 to 32 mg every 6 hours. Mr. Steffens did enter the incorrect doctor. The signature was illegible, but the doctor had written his DEA number on the prescription. Mr. Steffens said at his store he usually checks the DEA number but did not in this case. In hindsight if he had checked the DEA number, he stated that he would have entered and contacted the correct doctor. Mr. Steffens stated that he was looking out for the patient's best interest. President Draugalis asked Mr. Steffens in retrospect would he have handled the situation the same way. Mr. Steffens stated that he would not have handled the situation the same way. President Draugalis asked that a letter be sent to the doctor concerning the illegible handwriting and the high dosage. Mr. Dutcher asked Mr. Steffens if this was a regular customer. Mr. Steffens stated that this was the first time he had worked at this store. He stated that the patient had received many prescriptions at the store and several were for narcotics. Ms. Wilson stated that the patient had received numerous prescriptions from both physicians. Mr. Draugalis reminded Mr. Steffens to not be hurried into dispensing a prescription and to wait for clarification from the physician.

COMPLAINT # 2670

Pharmacist Seymour Epstein, Pharmacy Technician Irene Rodriguez, Pharmacy Manager John Carpenter, and Supervisor Darren Kennedy were present relevant to a consumer complaint. Compliance Officer Dean Wright was requested to describe the findings of his investigation. President Draugalis asked Mr. Epstein to discuss the events leading to this discussion. Mr. Epstein stated that he would like to address the Board concerning inaccuracies in the Compliance Officer's report. Mr. Epstein stated that he had never spoke with the Compliance Officer because he was off the day the Compliance Officer was at the store. He stated that he could not have made the error because he did not work the day the prescription was filled. Mr. Epstein said he would like the records to be changed to acknowledge these inaccuracies. Mr. Carpenter addressed the Board and stated that he was the pharmacist that filled the Levaquin. When Mr. Wright was at the store, it was noticed that no one had documented the name of the individual that had authorized the refill. He had the technician call the doctor's office and the doctor's office said that they authorized the refill. Mr. Carpenter explained that the patient returned the prescription while Mr. Epstein was working and the refill was deleted thus placing Mr. Epstein's initials on the label. Mr. Carpenter stated the only involvement Mr. Epstein had in the incident was to provide the patient with a refund. The patient was upset because it is the policy of the pharmacy to credit the credit card for the refund when the prescription is purchased with a credit card. President Draugalis apologized to Mr. Epstein and stated the record will be changed to reflect the inaccuracies. President Draugalis asked that an apology letter be sent to Mr. Epstein on behalf of the Board.

COMPLAINT # 2674

President Draugalis called Pharmacists Steve Esch, David Weinkauff and Supervisor Bryan Bakke forward to address the Board concerning this complaint. Compliance Officer Larry Dick gave a brief overview of the findings of his investigation. Mr. Esch stated that he called the physician when the patient presented prescriptions for warfarin and his antiviral medications. The doctor indicated that the combination was fine because the patient was on this therapy in the hospital. Mr. Weinkauff indicated that he called the physician for the warfarin refill and this was the same doctor who had prescribed the antiviral medications, so he noted that the patient had taken the medications previously with no problems. Supervisor Bryan Bakke stated that the computer system has hard stops in the system to alert the pharmacist to such interactions. The first stop was a level 7 stop. Mr. Bakke stated that a level 7 interaction indicates that the interaction may not occur in all patients and it may cause harm to

the patient. The second step was a level 9 stop. This stop indicates the interaction will occur in all patients and usually has serious outcomes. President Draugalis asked if outcomes were documented. Mr. Bakke stated that the outcomes were documented. The doctor was contacted and the patient had been on this combination of medications in the hospital.

COMPLAINT #2676

Pharmacist Jeff Barshay and his supervisor Sharon Richardson were present relevant to a consumer complaint. The Regional Pharmacy Manager Steve Lerch was also present. Compliance Officer Larry Dick reported the findings of his investigation. President Draugalis asked Mr. Barshay to discuss the events leading to this discussion. Mr. Barshay stated that he did misfill the prescription. The prescription was written for Dilantin 100mg and was filled with Neurontin 100mg. Mr. Barshay stated that this error had occurred in his pharmacy prior to this incidence. The technician that counted the medications for him habitually counted Neurontin for Dilantin. Mr. Barshay said in this incidence he did not check the contents of the bottle and the prescription went out labeled as Dilantin with Neurontin in the bottle. Mr. Barshay is not sure who answered the telephone when the patient called asking about the medications. He stated that he would never have had told the patient that the two medications were interchangeable because the medications can be used for different therapies. Mr. Barshay stated that the company has now installed a second scanner for verification. Mr. Barshay stated that he did research the drug and the medication probably would not have caused the patient any harm as long as she had taken Dilantin with the Neurontin. Mr. Draugalis asked Mr. Barshay if he liked the scanners. Mr. Barshay stated that he likes the scanner and the scanner helps prevent errors. Mr. Lerch addressed the Board. He stated that all errors are reviewed with the regional pharmacy supervisors. They try to identify the problems that may have caused the errors and what changes can be made to correct the problems. He stated that his pharmacy chain holds technicians accountable for their errors. He stated that if a technician makes an error they are re-educated and if the error is serious enough disciplinary action is taken. President Draugalis thanked Mr. Barshay for taking ownership of the error and not blaming someone else for the problem.

COMPLAINT #2681

Pharmacist Fred Hirth and his supervisor Jerry Denny were present relevant to a consumer complaint. The Regional Pharmacy Manager Steve Lerch was also present. Compliance Officer Mitzi Wilson reported the findings of her investigation. President Draugalis asked Mr. Hirth to describe the events leading up to this complaint. Mr. Hirth stated that he read the prescription as Doxycycline 100mg with directions to take one-half capsule daily. It was after hours and the physician could not be called for clarification. Mr. Hirth dispensed Doxycycline 50 mg with the directions to take one daily. Mr. Hirth later was told that the symbol he read as $\frac{1}{2}$ was actually a one with a dot above the line. President Draugalis asked Mr. Hirth what he has changed in his practice to eliminate this error. Mr. Hirth stated that if he has any questions about a prescription he now waits and contacts the physician. Mr. Hirth stated that he uses a six point check system on every prescription. Mr. Hirth stated that if the patient had called the pharmacy instead of the front end of the store the problem would have been resolved quicker. Mr. Draugalis asked that a letter be sent to the physician since the directions were confusing and led to the error. Mr. Hirth stated that the office staff also read the symbol as $\frac{1}{2}$ when faxed to their office.

COMPLAINT #2682

Due to a conflict of interest, President Draugalis turned the meeting over to Vice President McAllister. Vice President McAllister called Pharmacist Jean Dal Ponte and Supervisor Dean Burton forward to address the Board concerning this complaint. Compliance Officer Ed Hunter presented a summary of the findings of his investigation. Mr. McAllister asked Ms. Dal Ponte to describe the events that led up to this complaint. Ms. Dal Ponte stated that this is her first mis-fill in the five years that she has practiced and she is very sorry for the error. She stated that the technician typed the prescription incorrectly. The technician read the dosage as 90 mg and not 15 mg. The figure 90 actually represented the quantity. Ms. Dal Ponte stated that she verified the prescription and counseled the patient to take three of the 30 mg tablets. She stated that she did not check the label against the hard copy. Mr. McAllister asked what changes she has made in her practice. She stated that she now checks the label against the hard copy prescription. She no longer allows distractions to get in the way of completing the prescription.

Mr. McAllister asked if she has always worked at this store. She stated yes and that the patient was new to the pharmacy. She states that she always asks the patient if they had this medication before at their store or elsewhere. In this case, the patient's agent picked up the prescription. Ms. McCoy stated that she appreciated the changes that Ms. Dal Ponte has made in her practice. Mr. Dutcher asked if it is customary for their pharmacy to change the strength without calling the physician. She stated that they usually do not call the physician but dispense the total dosage. She stated that the pharmacy is located next to

University Medical Center and many residents do not know what dosage strengths are available for the medications that they prescribe and just prescribe the dose they want the patient to take. She stated that a call to the physician to clarify the strength probably would have caught this error. Mr. McAllister stated that he is glad that she has made the changes she did in her practice because they will help protect the patient.

President Draugalis stated that the rest of the conferences will be held on Thursday morning.

AGENDA ITEM VIII - CONSENT AGREEMENTS

President Draugalis asked Board Members if there were any questions or discussion concerning the Consent Agreements. Deputy Director Frush indicated that all matters on the agenda have been resolved as Consent Agreements or stipulated orders that have been reviewed and approved by the Attorney General's Office. President Draugalis asked Mr. Wand to briefly address the consents. Mr. Wand stated the first Consent Agreement was signed by a pharmacist at a compounding pharmacy. Two prescriptions were compounded that resulted in the patient receiving an overdose of approximately 800 times the prescribed dose. The pharmacist's license is suspended for 90 days and placed on probation after the suspension for one year. He must attend and pass a compounding course and a pharmacy management course. He was also fined \$2000.00.

The second Consent Agreement was signed by a pharmacist for improperly returning medication to the pharmacy for resale. The pharmacist was placed on probation for 6 months and ordered to pay a \$500.00 fine.

The final Consent Agreement was signed by the ownership of the compounding pharmacy where the prescriptions were compounded that resulted in the overdose listed in the first agreement. The pharmacy is placed on probation and will be inspected four times in the next 6 months at the expense of the pharmacy. The pharmacy will provide the board a quality assurance program for all the stores in Arizona.

Mr. Dutcher felt that the Board need to be more stringent on the ownership of the pharmacy and asked how the Board takes action against the ownership. Mr. Wand explained that A.R.S. §32-1927 allows the Board to take action against a pharmacist and A.R.S §32-1932 allows the Board to discipline the permit holder (ownership). Assistant Attorney General Pulver addressed the Board by stating that most owners are corporations and therefore an individual owner is shielded from discipline. In this case, the pharmacy ownership has agreed to institute the same quality assurance programs in all the stores in Arizona, instead of the one store that is on probation.

On motion by Mr. Jones and Ms. McCoy, the Board unanimously agreed to accept the following Notices of Hearing/Consent Agreements as presented in the meeting packet and signed by the respondents:

James Rehovsky 03-0013-PHR

Martin Rossof 03-0014-PHR

Apothecary Shop of Phoenix, Inc. 03-0015-PHR

AGENDA ITEM IX - UPDATE ON FACILITATOR/STORE FRONTS

President Draugalis asked Mr. Wand to address this issue. Mr. Wand stated that this is an update on foreign importation of medications. Mr. Wand told the audience that Channel 3 will be presenting a news story on Thursday evening concerning a complaint from a consumer that purchased medications in Mexico. One of the medications was found to be sub-potent when tested by the University of Arizona College of Pharmacy.

Mr. Wand further explained that the importation of medication from a foreign country is a legal and safety issue for the Board. It is currently a violation of 21 USC 381(d) for anyone to import drugs except the manufacturer of the drugs. Mr. Wand stated that the Board is powerless if a prescription error occurs because the Board can not discipline a firm that is not licensed or permitted by the Board. Mr. Wand stated that Board will continue to issue warning letters to businesses offering to sell imported drugs. The letter will state that they may be practicing pharmacy without a license and further legal action may be taken if the allegations are proven to be true. Letters are also sent to firms using the terms Pharmacy, Rx, or Drug, and asking them to cease using the symbols if a pharmacist is not present on site. The only recourse the Board would have to stop these businesses would be to seek a court ordered injunction. Injunctions do not prevent the business from relocating and

starting business again. Mr. Wand stated warning letters have been sent and will continue to be sent upon discovery of such firms.

Assistant Attorney General Pulver stated that the Attorney General's office is discussing various ways of investigating the companies that are facilitators. The office is looking at the best way to proceed to protect the public safety.

Mr. Wand stated that the U.S. House of Representatives passed a bill that will allow drugs to be imported. The U.S. Senate has not acted on the issue. He stated that the Arizona Silver Haired Legislature is urging the Arizona legislature to consider entering into an agreement that will allow the citizens of Arizona to import medications from Canada.

AGENDA ITEM X - 2004 Legislation Impacting the Profession of Pharmacy

President Draugalis asked Mr. Wand to update the Board on this agenda item. Mr. Wand indicated that in the Board meeting materials he has included a current copy of A.R.S §32-1976 - dispensing replacement soft contact lenses. Mr. Wand stated that a bill may be introduced this session that will require the Board of Pharmacy to regulate the mailing of contact lenses into the state of Arizona from non-resident vendors. Mr. Wand stated that he has seen a draft of the proposed legislation and will follow the progression of the legislation if it appears.

AGENDA ITEM XI - Hearings

All Notices of Hearing have been resolved as Consent Agreements and no hearings were scheduled for this meeting.

AGENDA ITEM XII - STRATEGIC PLANNING

President Draugalis asked Executive Director Wand to address this issue. Mr. Wand stated that at the last meeting Mr. Ketcherside proposed that the Board conduct strategic planning for the coming year. One of the areas was prioritizing new rules that need to be written. Mr. Wand stated that next year the goals would be to develop rules for the following areas: Immunizations, electronic prescription transmission, and tele-pharmacy (remote-verification). Mr. Wand stated that Mr. Wright has started working on the rules for immunizations. The rules will limit the types of immunizations that can be given by the pharmacist to adults only. The immunizations will be probably limited to influenza, hepatitis, and tetanus. In order to immunize children, voluminous, special records must be kept. Other health care practitioners have stated that they only time that some children receive medical evaluation is when they receive required immunizations. It was felt that a pharmacist could not properly evaluate a child's medical situation as well as other health care practitioners.

Mr. Wand discussed the Compliance Officers inspections for the coming year. With the ever increasing number of pharmacies, it will be difficult to conduct inspections of every facility annually. Mr. Wand stated that the staff will continue to make an attempt to finish all inspections, but may not be able to and will begin with those inspections at the beginning of the following year. Mr. Wand stated that the volume of consumer complaints is increasing and that they are the top priority and timely complaint resolution should take precedence over inspections. Mr. Draugalis stated that he feels the complaints should be the first priority. Mr. Wand stated that most inspections are educational and that the Compliance Officers do an excellent job informing pharmacists about the new rules during these inspections. The Board has had a policy of encouraging voluntary compliance. Mr. Draugalis pointed out that if the Compliance Officers do not use the cars the state will require that the Board return the cars.

Mr. Jones asked if self-inspections were appropriate. Mr. Draugalis stated that he felt everyone would reply that they were in compliance. Mr. Jones said that if the pharmacist was not honest in filling out the self-inspection form maybe there should be a more stringent penalty if they were found in violation by a Compliance Officer. Mr. Dutcher suggested that the self-assessment form might be useful when there is a change of the pharmacist-in-charge.

Mr. Jones said that he felt the Controlled Substance audits that the Compliance Officers perform on their inspections is important to prevent the diversion of drugs. Mr. Wand stated that when the Compliance Officers first started doing audits in 1996, they discovered improper record keeping in many pharmacies. He feels that if we quit doing audits during inspections that record keeping may become non-compliant again.

Ms. McCoy stated with the many changes that the Board has seen in the past several months such as tele-medicine, off-site verification of prescriptions and the change in the technician ratio, she feels that if we do not do inspections that we will see problems.

The last strategic planning issue that was discussed was the Board priorities. Assistant Attorney General Pulver addressed the group concerning a retreat for strategic planning purposes. He provided the Board Members with recommendations and a sample agenda from the Board of Medical Examiners. The Board Members stated that they will leave this topic until the next Board meeting.

A brief recess was called at 3:00 P.M. and the meeting resumed at 3:10 P.M.

AGENDA ITEM XIII - APPROVAL OF BOARD MEETINGS SCHEDULE FOR 2004

The Board members reviewed the proposed schedule for the Board Meetings for next year. The following is a list of proposed meetings and sites for 2004:

<u>Date</u>	<u>Location</u>	<u>City</u>
January 14 and 15	Midwestern University	Glendale
March 17 and 18	Board of Pharmacy Office	Glendale
May 12 and 13	Board of Pharmacy Office	Glendale
June 24	Westin Kierland - APA Convention	Scottsdale
August 11 and 12	Prescott Resort Conference Center	Prescott
October 27 and 28	Board of Pharmacy Office	Glendale

CONTINUATION OF AGENDA ITEM V - RULES

President Draugalis asked Mr. Wright to come forward so that the discussion that was started prior to the lunch break could be continued. Mr. Wright stated that he needed a motion to continue with the technician rules with the changes that were discussed in the morning session.

Mr. Dutcher asked if the rules that Mr. Wright had in front of him eliminated the technician ratio. Mr. Wright replied that the proposed rules did not specify a technician ratio and in essence the ratio is eliminated. Mr. Dutcher stated that he felt that a technician ratio still needs to exist. He felt that the copies of the e-mails from the pharmacists indicated that many pharmacists were against eliminating the ratio. He feels the technician ratio is beneficial for patient safety.

President Draugalis stated that the Board Members voted at the last meeting and the consensus was 6 to 1 to eliminate the ratio. He felt that we should proceed as the members had voted at the last meeting. **On motion by Mr. McAllister and Ms. McCoy**, the Board approved Mr. Wright to move forward with rulemaking process which includes the elimination of the technician ratio. The consensus was that 4 Board Members voted aye and 1 Board Member voted nay.

Mr. McAllister addressed the audience by stating that a Public Hearing would be held to express their views. Mr. Wright was unable at this time to provide the exact date of the hearing. Mr. Wand asked if a notice of the hearing should be sent to the pharmacists or should the notice only be posted on the Board website. President Draugalis felt that the notice published by the Secretary of State was sufficient. He was worried about the cost of postage and if this sets a precedent that the Board must notify the pharmacists of any future hearings. Assistant Attorney General Pulver stated that the Board may send a notice for a specific hearing and would not be required to send notices for future hearings. It was then decided that the Board should mail a copy of the notice of hearing to each resident pharmacy.

AGENDA ITEM XV - CALL TO THE PUBLIC

President Draugalis announced that interested parties have the opportunity at this time to address issues of concern to the Board, however the Board may not discuss or resolve any issues because the issues were not posted on the meeting agenda. Several pharmacists spoke in favor of eliminating the ratio and one pharmacist stated that most pharmacists were not aware of the proposed change and thinks that pharmacists would like the opportunity to discuss the issue. Several pharmacy leaders commented that they were in favor of eliminating the ratio. They felt that corporations would not place an unsafe number of technicians in the pharmacy. They cited workflow issues, pharmacy size, and counter space as limiting factors. They also stated that patient safety and care would be their first concern.

There being no further business to come before the board, **on motion by Mr. McAllister and Mr. Jones**, the board unanimously agreed to adjourn the meeting at 4:00 P.M.

November 6, 2003

President Draugalis reconvened the meeting at 9:00 A.M. President Draugalis introduced Lynette Evans. Ms. Evans is the Policy Advisor to the Governor for 90/10 Boards.

CONTINUATION OF AGENDA ITEM VII - CONFERENCES

Complaint # 2685

President Draugalis called Pharmacist Andy Do and his supervisor Fauzia Somani forward to discuss a consumer complaint. Mr. Wright gave a summary of the findings of his investigation. President Draugalis asked Mr. Do to discuss the events that led up to his appearing before the Board for this consumer complaint. Mr. Do stated that a father and son both dropped off prescriptions at the pharmacy. They both have the same first and last name and the only distinguishing factor is the SR. and JR. at the end of the name. The father called saying that his bottle had his son's name on the bottle. Mr. Do told the father to bring the bottle back to the pharmacy and he would correct the error. In the meantime, his son took a second dose of the medication that he thought was his medication. Mr. Draugalis asked if there were any checks and balances in the system and did he look at the hard copy of the prescription when he verified the prescription. He replied that he did look at the hard copy and he was not aware that there two people with the same name. Mr. Draugalis stated that if he used the hard copy for counseling the error may have been caught. Mr. Draugalis also pointed out that if the pharmacy had retrieved the incorrectly labeled bottle instead of waiting for the patient to bring the bottle back to the pharmacy, the wrong patient would not have taken an additional dose of the wrong medication. Mr. Dutcher asked if they enter the full name of the patient. Mr. Do replied that they enter the phone number and in this case both patients live at the same address and have the same phone number. Mr. Dutcher asked if both names would come up in the system. Mr. Do said he believed that both names came up but that the technician picked one. President Draugalis asked what changes were being made at this pharmacy. Mr. Do stated that the patient's birth date is now handwritten on the front of the prescription. Ms. McCoy asked if this is now policy for the entire chain. The supervisor replied that it is now policy and that a computer entry field has been created on the profile for JR. , SR. and III. Ms. McCoy referred to Mr. Do's reply that he offered to counsel the patient and the patient refused. Ms. McCoy reminded Mr. Do that he should provide counseling and not an offer to counsel. Mr. Jones expressed concern that if the age difference of the patient's had been greater than more serious consequences could have occurred. Mr. Jones said that counseling should never be offered as an option. He stated if you ask most patients if they want to be counseled that they will say no. Mr. Jones asked Mr. Do if he has made any other changes in the way he practices. Mr. Do stated that a pop-up screen now pops up indicating that there are more than one person with the same name and he checks the birth date. President Draugalis echoed what Ms. McCoy and Mr. Jones said about counseling and reminded Mr. Do to be careful.

Complaint # 2687

Due to a conflict of interest, President Draugalis turned the meeting over to Vice President McAllister. Vice President McAllister asked Pharmacist Karen Bloom and supervisor Terry Daane to address the Board concerning the consumer complaint. Compliance Officer Rich Cieslinski was present to report the findings of his investigation. Vice President McAllister asked Ms. Bloom to discuss the events leading up to this consumer complaint. Ms. Bloom stated that she was

filling prescriptions side-by-side with her technician using a double team approach. If one person got called away the other person would continue the work. She figures that the lovastatin was counted twice and then was labeled as Depakote. She stated that she scanned the receipt and not the bottle. Mr. McAllister asked what changes were made in her practice. She stated that they no longer use the double team approach. If the work was not finished, the work is placed back in the triage basket and the person finishes the work that they started. She now scans the vial and the stock bottle when verifying the drug. Ms. Bloom pointed out that the company has changed the label to help prevent errors caused by scanning. Ms. McCoy commented that she was glad to hear the process has changed and that this error helped prompt a change for the better. Mr. McAllister reminded Ms. Bloom to be careful.

Complaint #2688

Pharmacist Susan Rapp and her supervisor Darren Kennedy were present relevant to a consumer complaint. Compliance Officer Dean Wright was requested to describe the findings of his investigation. President Draugalis asked Ms. Rapp to discuss the events leading to this discussion. Ms. Rapp explained on a refill the patient was given Avandia instead of Amaryl and he had taken several doses. She stated that she worked that Friday. She had worked a 14 hour shift. She worked a double shift that day. She did not know about the mistake until nine days later when the patient returned. She asked the intern to refund the money and give the patient the correct medication because she was on the phone. She said that she called the wrong doctor because the patient had changed physicians. Ms. Rapp stated that she should have talked to the patient instead of allowing the intern to do so. She stated that she should have obtained the correct doctor's name from the patient. President Draugalis told Ms. Rapp that she keeps using the words "should have" and his question is why didn't you do it. Ms. Rapp replied that she now knows what she should have done. Mr. Draugalis asked what time of the day did the error occur. Ms. Rapp stated it occurred in the middle of the afternoon. Mr. Draugalis asked what she has changed about her practice. Ms. Rapp said she now asks for help or steps out of the pharmacy for a break. She has separated sound alike drugs in the pharmacy. Ms. Rapp stated that she has completed some law CE. Ms. Rapp stated that she now follows up on errors. Mr. McAllister asked Ms. Rapp if working 14 hours was her choice. Ms. Rapp replied yes. Mr. McAllister asked Mr. Kennedy if this was a safe practice to allow a pharmacist to work 14 hours. Mr. Kennedy replied that it completely voluntary. Mr. McAllister reminded Ms. Rapp that she should have talked to the patient about the error and not the intern, since many interns do not have the experience to handle this type of situation. Mr. Jones asked Mr. Kennedy if there was a problem with staffing at this location if the pharmacist was working 14 hours. Mr. Kennedy replied that the pharmacy was fully staffed with one pharmacist and three technicians. Mr. Jones asked Mr. Kennedy if this was a safe environment and he replied yes. President Draugalis advised Ms. Rapp to be careful.

Complaint #2693

Pharmacist Leslie Rini and her supervisor Bryan Bakke appeared relevant to a consumer complaint. Compliance Officer Dean Wright presented the findings of his investigation. President Draugalis asked Ms. Rini to describe the circumstances leading up to this complaint. Ms. Rini replied that prescription for Nortriptyline was filled under the son's name and not the father's name. The confusion stems from the fact the father and son have the same name and are distinguished by the JR. and SR. designation. The error was discovered when the patient requested a refill and his insurance was expired. At this time, the mother discovered that the prescription was filled under her son's name and not his father's name. Ms. Rini said that she corrected the prescription and ran the prescription under the father's name. She added the JR. to the son's name, so now both SR. and JR. show when someone enters the name, prior to this only the son's profile appeared. She noted that the correct patient did take the medication. She stated that pop up message indicates that there are two patients with the same name and to check the birth date. Mr. Draugalis asked what changes she has made in her practice. Ms. Rini stated that the birth date is now put on the face of the prescription and she checks that against the date on the label. Mr. Draugalis asked if she uses the hard copy when counseling. She replied that she does. Ms. McCoy noted that the pharmacy caught one error by counseling the patient and the process has been improved at this store. Mr. Jones told Ms. Rini she should recommend her changes to the corporate office, so that all stores are aware of the problems that occur when two patients have the same name and the only difference is the JR. and SR. designation. President Draugalis reminded Ms. Rini to take this error seriously because a very young child could have been hurt.

President Draugalis announced that interested parties have the opportunity at this time to address issues of concern to the Board, however the Board may not discuss or resolve any issues because the issues were not posted on the meeting agenda. A pharmacist pointed out to the Board that a technician ratio still exists in the mail-order and long-term care facilities and they may want to eliminate the ratio in these two areas.

Ms. Evans from the Governor's office addressed the Board. She stated that she is the policy advisor to the Governor for the Board of Pharmacy. She states that she works with the regulatory boards to help resolve issues. She stated that any issues that the Board would like to discuss with her to present those issues to the Executive Director and she will be happy to assist the Board in any way that she can.

There being no further business to come before the Board, **on motion by Mr. McAllister and Ms. McCoy**, the board unanimously agreed to adjourn the meeting at 10:30 A.M.